

1 BILL NO. R-89-06-09

2 RESOLUTION NO. R-

41-89

3 A RESOLUTION AUTHORIZING THE EXECUTION
4 AND DELIVERY OF A MEMORANDUM OF INTENT
5 BETWEEN THE CITY OF FORT WAYNE,
6 INDIANA, AND ND-TECH CORPORATION, AN
7 INDIANA CORPORATION, AND PROVIDING FOR
8 THE ISSUANCE BY SAID CITY OF ITS
9 ECONOMIC DEVELOPMENT REVENUE BONDS
10 PURSUANT TO THE PROVISIONS OF INDIANA
11 CODE, TITLE 36, ARTICLE 7, CHAPTER 12,
12 AS AMENDED.

13 WHEREAS, the City of Fort Wayne, Indiana (the "City"),
14 is authorized under the provisions of Indiana Code, Title 36,
15 Article 7, Chapter 12, as amended (the "Act"), to finance the
16 acquisition, construction and equipping of economic
17 development facilities for the users thereof, and to provide
18 for the issuance of revenue bonds in conjunction therewith;
19 and

20 WHEREAS, the Fort Wayne, Indiana, Economic Development
21 Commission (the "Commission") has conducted negotiations, held
22 a public hearing and prepared a report with respect to the
23 Project and the financing hereinafter referred to, and has
24 recommended the adoption of this Resolution by the Common
25 Council of the City;

26 WHEREAS, the City, in order to create additional
27 employment opportunities for its inhabitants and to implement
28 the public purposes enumerated in the Act, and in furtherance
29 thereof to induce ND-Tech Corporation, an Indiana corporation
30 (the "Borrower"), to construct a manufacturing plant situated
31 on land to be acquired in the City, and to acquire machinery
32 and equipment for the cold forming of parts for the
transportation industry at said plant (the "Project"), has
indicated its intent to issue its revenue bonds under and
pursuant to the provisions of the Act and to apply the
proceeds therefrom to the payment of a portion of the costs of
the Project; and

WHEREAS, the Borrower, in reliance upon the intent of
the City to finance a portion of the Project through the

issuance of revenue bonds under the provisions of the Act, has
determined to proceed with the Project; and

WHEREAS, in order to satisfy the requirements of the
Internal Revenue Service regulations pertaining to the
issuance of tax-exempt bonds, and any other and subsequent
requirements, whether regulatory or statutory, and whether
State or Federal, relating to the intent of the City to
provide financing for the Project, it is necessary and
desirable that the City adopt this Resolution; and

WHEREAS, it is necessary and desirable to authorize the
execution and delivery by the City of a Memorandum of Intent
expressing formally and in writing the understanding
heretofore informally agreed upon by the City and the
Borrower;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of
the City of Fort Wayne, Indiana, as follows:

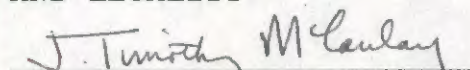
SECTION 1. The Mayor is hereby authorized and directed
to execute a Memorandum of Intent substantially in the form
attached hereto, by and between the City and the Borrower, and
the City Clerk is hereby authorized and directed to affix the
seal of the City thereto and to attest the same; and said
Mayor and City Clerk are hereby authorized and directed to
cause said Memorandum of Intent to be delivered to the
Borrower, and when accepted and executed by or on behalf of
the Borrower, an executed counterpart shall be filed in the
Office of the City Clerk.

SECTION 2. All resolutions and orders, or parts
thereof, in conflict with the provisions of this Resolution
are, to the extent of the conflict, hereby repealed.

SECTION 3. That this Resolution shall be in full force
and effect from and after its passage and any and all
necessary approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by _____,
seconded by _____, and duly adopted, read the _____
title and referred to the Committee on _____
City Plan Commission for recommendation, and Public Hearing to be held after
due legal notice, at the Council Conference Room 128, City-County Building,
Fort Wayne, Indiana, on _____, the _____, day
of _____, 19_____, at _____ o'clock _____ M., E.S.T.

DATED: 6-13-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____,
seconded by Talarico, and duly adopted, placed on its
passage. PASSED ~~last~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____
<u>LONG</u>	<u>✓</u>	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____

DATED: 6-27-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. Q-41-89
on the 27th day of June, 1989,

ATTEST
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 28th day of June, 1989,
at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 28th day of June,
1989, at the hour of 11:30 o'clock A.M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

MEMORANDUM OF INTENT

THIS MEMORANDUM OF INTENT, made and entered into on June _____, 1989, by and between the City of Fort Wayne, Indiana, a municipality in Allen County, Indiana, (the "City"), and ND-Tech Corporation, an Indiana corporation (the "Borrower"),

W I T N E S S E T H:

WHEREAS, the City recognizes that it is necessary for the general welfare and economy of the City that the City endeavor to provide sufficient employment opportunities, an increase in the tax base, and a diversification of industries; and

WHEREAS, the City is authorized under the provisions of the Indiana Code, Title 36, Article 7, Chapter 12, as amended (the "Act"), to finance the acquisition, construction and equipping of economic development facilities, and to provide for the issuance of revenue bonds in conjunction therewith; and

WHEREAS, the City, in order to implement the public purposes enumerated in the Act, and in furtherance thereof to induce the Borrower to construct a manufacturing plant situated in the Summit Industrial Park in the City, and to acquire machinery and equipment to be used in the cold forming of parts for the transportation industry at said plant (the "Project"), has indicated its intent to issue its revenue bonds under and pursuant to the provisions of the Act, and to apply the proceeds therefrom to the payment of a portion of the costs of the Project and expenses incidental thereto; and

WHEREAS, the Borrower, in reliance upon the intent of the City to finance a portion of the costs of the Project through the issuance of its revenue bonds under the provisions of the Act, has determined to proceed with the Project; and

WHEREAS, it is now deemed advisable to express formally and in writing the understanding heretofore informally discussed by the parties hereto;

NOW, THEREFORE, in consideration of the premises and of

the mutual undertakings herein expressed, the parties hereto recognize and intend as follows:

A. The City represents and intends that:

1. The City is authorized by the provisions of the Act to finance the Project, and for the purpose of paying a portion of the cost of the Project, including expenses incidental thereto, is authorized as aforesaid to issue its revenue bonds payable from the revenues and income derived by the City from the Project.

2. The City intends, subject in all respects to the provisions and requirements of the Act and to a sale of the bonds on terms satisfactory to the Borrower, to authorize, issue, sell and deliver its revenue bonds, to be issued in an aggregate principal amount of not to exceed \$10,000,000 (which amount will be fixed by ordinance of the City at a later date and agreed to by the Borrower, but not to exceed the cost of the Project and expenses incidental thereto as estimated at the time of the issuance of the bonds), and apply the proceeds therefrom to the payment of a portion of the cost of the Project, provided that prior to the issuance and delivery of such revenue bonds there shall have been entered into between the Borrower and the City appropriate financing agreements upon terms which will comply with the provisions of the Act and which will provide for the payment by the Borrower of amounts which will be sufficient to enable the City to pay the principal or purchase price of, premium, if any, and interest on such revenue bonds.

3. The financing of the Project by the City is for a proper public purpose, and is necessary to implement the public purposes enumerated in the Act.

B. The Borrower represents and intends that:

1. The Project will result in increased employment in the City.

2. If the proposed revenue bonds (including the rate of interest thereon) of the City are satisfactory to the Borrower, it will enter into financing agreements with the City

upon terms which will be sufficient to pay a portion of the cost of the Project and expenses incidental thereto, as evidenced by such revenue bonds to be issued, and will enter into such appropriate financing agreements with the City with regard to the foregoing prior to the issuance and delivery of any such revenue bonds by the City.

3. The Borrower intends during the term of any such financing agreements to cause the Project to be used for the cold forming of parts for the transportation industry.

C. It is further recognized and intended between the parties hereto as follows that:

1. The revenue bonds to be issued by the City will never constitute an indebtedness of the City or a loan of the credit thereof within the meaning of any constitutional or statutory provision. No holder of any of said bonds shall ever have the right to compel any exercise of the taxing power of the City to pay said bonds or the interest thereon. The principal or purchase price of, premium, if any, and interest on such revenue bonds to be issued to finance the cost of the Project shall be secured by a pledge to a trustee acting under an indenture of trust for the benefit of the holders of said bonds of the revenues and income derived by the City from the Project, and may be further secured by a pledge to said trustee or the holders of said bonds of the aforesaid financing agreements between the City and the Borrower.

2. A primary inducement to the Borrower to proceed with the Project is the intent of the City to finance a portion of the cost of the Project through the issuance of its revenue bonds pursuant to the provisions of the Act.

3. It is desirable that the Borrower, rather than the City, arrange for the acquisition, construction and equipping of the Project in order to ensure that the Project will conform to the requirements of the Borrower, for whose use the Project is designed.

4. This Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that in the event the bonds are not issued or sold as contemplated herein, there shall be no liability on the part of the City or the Borrower, or of any of their officers or employees, for such non-issuance or non-delivery.

5. This Agreement may be executed in separate counterparts, all of which shall be deemed a single instrument.

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, by and through its Common Council, has caused its corporate name to be hereunto subscribed by its Mayor, and attested under its official seal by its City Clerk, and ND-Tech Corporation, an Indiana corporation, has caused its name to be hereunto subscribed by its Vice President, all being done as of the date first above written.

THE CITY OF FORT WAYNE, INDIANA

BY: 

Mayor

(SEAL)

ATTEST:


City Clerk

ND-TECH CORPORATION

BY: _____

Vice President

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE RESOLUTION

Q-85-06-09

DEPARTMENT REQUESTING ORDINANCE ECONOMIC DEVELOPMENT

SYNOPSIS OF ORDINANCE RESOLUTION AUTHORIZING THE EXECUTION OF THE

MEMORANDUM OF INTENT BETWEEN THE CITY AND ND TECH CORPORATION

WHICH PROVIDES FOR THE ISSUANCE OF ECONOMIC DEVELOPMENT REVENUE

BONDS BY THE CITY OF FORT WAYNE.

EFFECT OF PASSAGE ALLOWS ND-TECH TO CONSTRUCT A MANUFACTURING PLANT

AND TO ACQUIRE MACHINERY AND EQUIPMENT.

EFFECT OF NON-PASSAGE WOULD NOT ALLOW COMPLETION OF THE PROJECT

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

Report of the Fort Wayne Economic Development Commission
Concerning the Proposed Financing of
Economic Development Facilities for

ND-TECH Corporation

Having been furnished certain data by the above applicant, and having had discussions with representatives of said applicant, the Fort Wayne Economic Development Commission now submits the following report pursuant to Indiana Code 36-7-12-1 et seq.

Description of Proposed Facilities

Project consists of the acquisition of approximately Twenty-three and twelve/one hundredths acres of land upon which to construct a 50,000 sq. ft. manufacturing plant and the equipment and machinery therein, all of which shall be located in Summit Industrial Park in Fort Wayne, Indiana.

Estimate of Public Services Required

All public services, including water and sewage, no exist. No public facilities will be made necessary on account of the proposed facilities.

Total Project Cost

The total project cost for the purchase, construction and equipping of the facilities is estimated to be \$10,000,000.00 including costs of issuance of the economic development revenue bonds.

Number of Jobs and Estimated Payroll

It is anticipated there will be approximately 40/70 by '93 new jobs created by this project with an estimated payroll increase of approximately \$1,000,000.00/\$1,400,000 annually.
by 1993

Adverse Competitive Effect

The construction of the facilities will not have an adverse competitive effect on any similar facilities already constructed or operated in or near Fort Wayne, Indiana.

Dated this 13 day of JUNE, 1989.

Herman L. Friedrich
Herman Friedrich

Graceella Beecher
Graceella Beecher

Jonathon E. Smith
Jonathon Smith

Thomas Jehl
Thomas Jehl

David P. Schenkel
David P. Schenkel

BILL NO. R-89-06-09

REPORT OF THE COMMITTEE ON FINANCE

THOMAS C. HENRY, CHAIRMAN
MARK E. GIAQUINTA, VICE CHAIRMAN
BRADBURY, SCHMIDT, STIER

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (RESOLUTION) AUTHORIZING THE
EXECUTION AND DELIVERY OF A MEMORANDUM OF INTENT BETWEEN
THE CITY OF FORT WAYNE, INDIANA, AND ND-TECH CORPORATION, AN
INDIANA CORPORATION, AND PROVIDING FOR THE ISSUANCE BY SAID
CITY OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS PURSUANT TO THE
PROVISIONS OF INDIANA CODE, TITLE 36, ARTICLE 7, CHAPTER 12,
AS AMENDED

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND
BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID

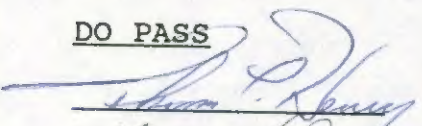
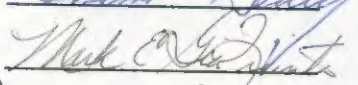
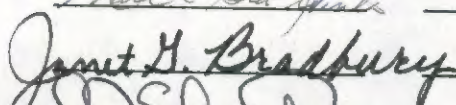
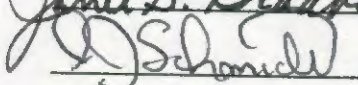
(ORDINANCE) (RESOLUTION)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

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_____	_____	_____	_____

DATED: 6-27-89.

Sandra E. Kennedy
City Clerk